



U. S. DEPARTMENT OF AGRICULTURE
Office of Information
Press Service



WASHINGTON, D. C.

Release - Immediate.

July 26, 1929.

**GAME WARDENS FREED
 OF KILLING CHARGES**

United States Game Protector W. L. Birsch and United States Deputy Game Warden John T. Capps, of the Bureau of Biological Survey of the United States Department of Agriculture, have been released from indictments for the killing of two game-law violators in self-defense at Back Bay, Va., February 4, 1927, by corporation-court order issued at Norfolk, Va., July 16, 1929. This action followed the acquittal in the same court June 12, 1929, of Virginia State Game Warden A. Floyd Mercer, who was indicted in the same killing. This was the third jury trial in the Mercer case, the first resulting in a conviction and the second in a disagreement of the jury. All remaining indictments against Warden Mercer have also been dropped.

The wardens had been sent to Back Bay as a result of numerous complaints of night shooting and shooting after the close of the season on waterfowl, and shortly after dark on February 4, 1927, came upon three hunters emerging from the marsh to enter an automobile. The testimony tended to show that the hunters opened fire on the wardens after being commanded to surrender in the name of the law. The fire of the wardens in self-defense resulted in the death of two of the hunters. Special counsel was employed by friends of the deceased to assist the Commonwealth attorney in the prosecution of the case; the wardens were defended by the United States district attorney and by special counsel provided by the defense. A representative of the Biological Survey was present at the trial and testified for the wardens.

The freeing of the wardens of all charges puts an end to a case of great interest to all game protectors and others interested in migratory-bird conservation.

###